

Matthew Borden, admitted *pro hac vice*
borden@braunhagey.com

J. Noah Hagey, admitted *pro hac vice*
hagey@braunhagey.com

Athul K. Acharya, OSB No. 152436
acharya@braunhagey.com

Gunnar K. Martz, admitted *pro hac vice*
martz@braunhagey.com

BRAUNHAGEY & BORDEN LLP
351 California Street, Tenth Floor
San Francisco, CA 94104
Telephone: (415) 599-0210

Kelly K. Simon, OSB No. 154213
ksimon@aclu-or.org

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF OREGON
P.O. Box 40585
Portland, OR 97240
Telephone: (503) 227-6928

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

INDEX NEWSPAPERS LLC, a Washington limited-liability company, dba **PORTLAND MERCURY**; **DOUG BROWN**; **BRIAN CONLEY**; **SAM GEHRKE**; **MATHIEU LEWIS-ROLLAND**; **KAT MAHONEY**; **SERGIO OLMOS**; **JOHN RUDOFF**; **ALEX MILAN TRACY**; **TUCK WOODSTOCK**; **JUSTIN YAU**; and those similarly situated,

Plaintiffs,

v.

CITY OF PORTLAND, a municipal corporation; **JOHN DOES 1-60**, officers of Portland Police Bureau and other agencies working in concert; **U.S. DEPARTMENT OF HOMELAND SECURITY**; and **U.S. MARSHALS SERVICE**,

Defendants.

Case No. 3:20-cv-1035-SI

DECLARATION OF NATE HABERMAN-DUCEY IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION AGAINST DEFENDANTS U.S. DEPARTMENT OF HOMELAND SECURITY AND U.S. MARSHALS SERVICE

I, Nate Haberman-Ducey, declare:

1. I am an Oregon resident who lives in the City of Portland. I am a rising 2L at Lewis & Clark Law School. I trained as a legal observer with the National Lawyers Guild one week into the protests and have attended the protests numerous times as an NLG legal observer. If called as a witness, I could, and would, testify competently to the facts below.

2. On July 19, 2020, I was walking with my bicycle through Lawnsdale Park towards SW Salmon and SW 3rd at around 1:45 a.m. I was wearing my green, NLG-issued hat. For several hours, I had been focused on finding evidence of crowd control munitions and was not participating in the protest. I was also looking for water because I had been tear gassed all night. There was more tear gas being dispersed in front of the Hatfield Courthouse.

3. At this time, there were no more than 4-5 people around me in the park. The atmosphere was still very heavy with tear gas. I was walking my bicycle through the park. I had one hand on the seat of the bicycle, and one on the handlebars. I was not posing a threat to the Hatfield Courthouse or anyone else.

4. Suddenly, without warning or reason, a federal agent shot my bike with a pink paint marking round from a FN 303 riot gun. When I stopped to look at what happened, they shot me in the right hand – my dominant hand – with the same force. The pain was excruciating. My hand swelled up immediately. The following is a true and correct copy of a photograph of my swollen and bruised right hand, taken shortly thereafter:



5. Here is a true and correct copy of a video documenting this incident, although I am off camera to the right: <https://tinyurl.com/NateShot1>. You can see a federal agent gesture towards where I am (off camera to the right) and near the end of the video, you can hear someone say: "They are firing at Nate right now."

6. I was wearing my unmistakable, green NLG hat. I was walking peacefully with my bike and there were no protesters or other people around me that the agent might have been aiming at.

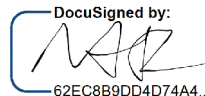
7. I tried to ignore the pain and continue observing, but it was incredibly painful. I went to the emergency room, where I remained until 9 a.m. this morning.

8. At the emergency room, the doctors put my broken hand into a splint, which I cannot clean, where it must remain for 4-6 weeks

9. I would like to continue attending and observing the protests but am extremely concerned that the federal agents' endless use of tear gas will contaminate my split. The gas leaves a serious residue on *everything* and I do not see how I will be able to clean my splint or safely observe the protests for the foreseeable future.

I declare under penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Dated: July 21, 2020

DocuSigned by:

62EC8B9DD4D74A4...

Nate Haberman-Ducey